Bylaw Review Procedures for Regional Districts

IMPLEMENTING BILL 62

Ministry of Municipal Affairs and Transit
HON. RITA M. JOHNSTON, MINISTER

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BYLAW REVIEW PROCEDURES

FOR REGIONAL DISTRICTS

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Ministry of Municipal Affairs
and Transit

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BYLAW REVIEW PROCEDURES

I PURPOSE

The purpose of this publication is to set out procedures for the review of all bylaws which require the approval of the Minister of Municipal Affairs and Transit under Sections 948 and 973 of the Municipal Act, with the exception of new official community plan bylaws, new rural land use bylaws, or major amendments to existing official community plans or rural land use bylaws.[1]

Bylaws which require such approval and come under these procedures are:

- minor amendments to official community plans;
- minor amendments to Part I of a rural land use bylaw;
- new base zoning bylaws (Section 963), subdivision servicing bylaws (Section 989), and any amendments to these; and
- amendments to Part II of a rural land use bylaw.

The procedures set out in this publication are consistent with the objectives of recent amendments to the Municipal Act. Referral of proposed bylaws to provincial agencies will ensure that regional districts and applicants obtain information on provincial interests and approval requirements as early as possible and will thus reduce needless delay which results from applicants and/or the regional district being unaware of provincial concerns until the final submission for approval stage.

Regional districts are requested to follow the procedures set out below for all bylaws listed above. Failure to follow these procedures may lead to delays in the approval by the Minister.

For further information and advice, please contact the Development Services Branch, Ministry of Municipal Affairs and Transit.

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1 A major amendment to an official community plan or rural land use bylaw is an amendment which involves:

(i) a change in boundaries;
(ii) a review, revision, or addition of a policy area; eg. agricultural policies, rural residential policies, industrial policies, hazard land policies;
(iii) a review, revision, or addition to the policies and/or designations applying to a sub-area of the planning, or any area greater than 40 hectares;
(iv) creation or deletion of a designation;
(v) incorporation of new infrastructure plans.

Procedures for new official community plan and major amendments are the subject of a separate publication entitled "A Guide to the Preparation of Official Community Plans by Regional Districts". Rural land use bylaws are covered in the Ministry's "A Guide to Rural Land Use Bylaws".

II BYLAW REVIEW PROCEDURES

1. Referral of Bylaws for Comment

Regional districts are required to refer bylaws to the following agencies for their review and comment:

- Regional Medical Health Officer
- Ministry of Transportation and Highways Approving Officer
- Development Services Branch, Ministry of Municipal Affairs and Transit
- Environment Regional Director, Ministry of Environment and Parks

If applicable, at the same time the bylaw shall also be referred to the following agencies for their review and comment:

If the bylaw applies to or effects:	Refer to:
. Agricultural Land Reserve land	. Provincial Agricultural Land Commission
If the bylaw simply gives effect to an application which the PALC has already approved, no referral is necessary.	
. Agricultural use of land	. Ministry of Agriculture and Fisheries, Green Zone Coordinator (Abbotsford)
. Resource lands or resource development such as Provincial Forests, Crown land, Provincial Parks, etc.	. the appropriate provincial resource agency

The Ministry of Municipal Affairs and Transit may request referrals to other agencies where other agencies' interests could be affected.

Regional districts may also wish to refer bylaws to other agencies which they think may have valuable input to make. This could include other provincial ministries, crown corporations such as B.C. Hydro, local governments and other local authorities such as improvement districts, and federal agencies such as CNR, Fisheries and Oceans, and port authorities.

2. Timing of Referrals

Bylaws must be referred to provincial agencies after 1st reading and prior to public hearing. Regional districts must ensure that bylaws are referred sufficiently in advance of public hearing to give provincial agencies time to consider and respond before the hearing.

As bylaws vary in complexity, the time allowed for referral may also vary. It is up to each regional district to establish a reasonable time for receipt of comments on any particular bylaw.

3. Amendments to Official Community Plans or Part 1 of a Rural Land Use Bylaw

Special procedures are required for amendment bylaws for official community plans and Part 1 of rural land use bylaws. Section 948 of the Municipal Act requires regional districts, after 1st reading and before public hearing:

(a) to examine the bylaw amendment in conjunction with its most recent capital expenditure program and any waste management plan or economic strategy plan that is applicable in the plan area, and

(b) to then refer the bylaw amendment to any local government which may be affected by the plan, and

(c) finally, to submit the results of its examination and comments received from affected local governments to the Minister of Municipal Affairs and Transit.

An amendment to a plan or Part 1 of a rural land use bylaw can be considered to "affect" an adjoining municipality or regional district if the area which is the subject of the plan or bylaw is in general proximity to the adjoining municipality or regional district, or if the development contemplated by the plan is of such a type and size as to cause impact on the adjoining municipality or regional district. Examples of such impact are: increased traffic, increased use of recreational facilities, reduction of downstream sewer capacity, and shift in community shopping patterns. Precise definition of "affect" will be arrived at through court decision. The best rule of thumb is to put yourself in the other jurisdiction's position and consider whether your regional district would want to be advised. When in doubt, a referral makes sense.

Regional districts should submit the results of their examination to the Development Services Branch of the Ministry of Municipal Affairs and Transit using a **Section 948 Submission Form** (Appendix "A"). This can be done in conjunction with the referral of the proposed bylaw to the Ministry required under Step 1 above.

Comments received within 30 days after the referral to affected local governments must be submitted to the Ministry before the public hearing.

4. Referral Form

A **Bylaw Referral Form** has been prepared by the Ministry for use in obtaining agency comments. A sample copy of this form is included in Appendix "A". Regional districts are asked to attach a copy of this form to the bylaw when it is referred for comments, and agencies are asked to return it to the regional district to provide information about the significance of the potential impact of the bylaw on their interests.

Copies of the referral forms and any attached written comments received by the regional district from provincial agencies must be submitted along with the bylaw when it is submitted for the Minister's approval.

Reviewing agencies are asked to substantiate their position in writing, whether recommending approval, conditional approval or rejection. If an agency's interests are unaffected, no written statement is necessary. Written comments will assist both the regional district and the Ministry of Municipal Affairs And Transit if there is conflict between two or more agencies.

4. Improving the Referral Process

A survey of regional districts using the referral process turned up the following recommendations for a more effective referral process:

(a) Batch referrals on a bi-weekly or monthly basis for sending to agencies.

(b) Provide a sufficient amount of background information so that agencies can provide useful comments. Staff reports are especially good.

(c) Consider holding an ad hoc meeting of agencies to discuss base bylaws or particularly complex or controversial bylaws.

5. Bylaws Not Requiring Ministerial Approval

Where an Official Community Plan is in place, no approval is required for implementing bylaws. However, the Ministry strongly encourages regional districts to refer these bylaws to the agencies indicated above to ensure that all provincial requirements are determined as early as possible in the development process.

6. Bylaw Approval

The **Bylaw Submission Form** has been redesigned to streamline administrative procedures. A Bylaw Submission Form is to be completed by the regional district and submitted with all bylaws requiring the Minister's approval under Sections 948 and 973 of the Municipal Act. A sample copy of this form is attached as Appendix A.

Regional districts are required to submit the following documentation with all bylaws which require the Minister's approval:

. 3 original bylaws certified as of third reading
. 1 completed Bylaw Submission Form
. 1 copy of public hearing minutes
. evidence of referrals and copies of comments received

The information submitted earlier in accordance with Section 948(b) of the Municipal Act will be retained on file and reviewed together with this submission.

APPENDIX A

Province of British Columbia

Ministry of Municipal Affairs and Transit

SECTION 948 SUBMISSION FORM

REGIONAL DISTRICT:	OFFICIAL COMMUNITY PLAN BYLAW No.:

In the case of a new official community plan or major amendment, this form is to be submitted to the Ministry of Municipal Affairs and Transit after 1st or 2nd reading along with the referral of the plan to the Ministry for confirmation.

In the case of minor official community plan amendments, this form is to be submitted to the Ministry of Municipal Affairs and Transit with the bylaw referral.

This bylaw has been examined in accordance with the *Municipal Act*, section 947 (2) (a) and is consistent with:

	Circle one for each		
a. The most recent capital expenditure program	Yes	No	N/A
b. Applicable waste management plans	Yes	No	N/A
c. Applicable economic strategy plans	Yes	No	N/A

COMMENTS/ATTACHMENTS:

Signed by: _____ Title: _____

Name: _____ Date: _____

Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW REFERRAL FORM

REGIONAL DISTRICT:	BYLAW No.:
	DATE:

You are requested to comment on the attached bylaw for potential effect on your agency's interests. We would appreciate your response within _____ days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

PURPOSE OF THE BYLAW:

GENERAL LOCATION:

LEGAL DESCRIPTION:

AREA OF PROPERTY AFFECTED: ALR STATUS: OCP DESIGNATION:

OTHER INFORMATION:

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected" no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this bylaw.

_____ (Signature)

_____ (Title)

This referral has also been sent to the following agencies:

- ☐ Health
- ☐ Transportation and Highways
- ☐ Environment and Parks
- ☐ Municipal Affairs and Transit
- ☐ Agricultural Land Commission
- ☐ Lands
- ☐ Parks and Outdoor Recreation Division
- ☐ Agriculture and Fisheries
- ☐ Forests
- ☐ Energy, Mines and Petroleum Resources
- ☐ Other, please specify: _____

_____

PLEASE TURN OVER

RESPONSE SUMMARY

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Note Recommended Due to Reasons Outlined Below

Signed By: _____ Title: _____

Date: _____ Agency: _____

BYLAW SUBMISSION FORM

Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW SUBMISSION FORM

This form is to be fully completed and submitted with all bylaws requiring approval of the Minister of Municipal Affairs and Transit pursuant to sections 946 and 972 of the *Municipal Act*.

The following documentation is attached as part of this submission:

- ☐ 3 copies of the bylaw
- ☐ Approval pursuant to section 57 of the *Highway Act* or ☐ Not required
- ☐ Approval pursuant to the *Agricultural Land Commission Act* or ☐ Not required
- ☐ Minutes of the Public Hearing
- ☐ Copies of Bylaw Referral Forms received from provincial agencies and adjacent local governments

REGIONAL DISTRICT:	BYLAW No.	MINISTRY USE ONLY: DATE RECEIVED	FILE No

TYPE OF SUBMISSION: ☐ OCP BYLAW ☐ RURAL LAND USE BYLAW ☐ ZONING BYLAW ☐ SUBDIVISION SERVICING BYLAW

OWNER OF SUBJECT PROPERTY: APPLICANT:

PURPOSE OF BYLAW:

LOCATION OF SUBJECT PROPERTY:

AREA OF SUBJECT PROPERTY:	PRESENT OCP/RLUB DESIGNATION:	SUBJECT TO AGRICULTURAL LAND COMMISSION ACT: ☐ YES ☐ NO	FLOODPROOFING PROVISIONS IN EFFECT: ☐ YES ☐ NO

MINISTRY USE ONLY:

COMPLIANCE WITH MUNICIPAL ACT: ☐ YES ☐ NO

SECTION 946 EXAMINATION RECEIVED ☐ N/A ☐ LOCAL GOVERNMENT COMMENTS ATTACHED ☐ N/A ☐

COMPLIANCE WITH PROVINCIAL INTEREST: ☐ YES ☐ NO

COMMENTS AND RECOMMENDATION:

	RETURN TO PLANNER ☐	SEE MEMO TO FILE ☐	AUTHORIZATION

Please type.

Please use this checklist and enclose all relevant items with the Submission.

Indicate type of bylaw submitted.

Giver owner's and applicant's name.

Describe briefly what the purpose of the bylaw is. Indicate the current regulation, what is is being changed to, and why the change is being made (or what it will permit to take place). e.g.: rezone from Rural 1 to Residential 2 to permit construction of a two-family dwelling.

Give street address or approximate vicinity.

Use additional sheets if necessary.